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HOUSE BILL 666

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Danice Picraux

FOR THE LEGISLATIVE HEALTH AND HUMAN SERVICES COMMITTEE

AN ACT

**RELATING TO PRESCRIPTION DRUGS; REQUIRING REPORTING OF CERTAIN
INFORMATION BY PRESCRIPTION DRUG MANUFACTURERS; PROVIDING
LIMITATIONS AND EXCEPTIONS; PROVIDING FOR ENFORCEMENT; MAKING
AN APPROPRIATION.**

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**Section 1. AVERAGE MANUFACTURER PRICE-- FILING--
REPORTING. --**

**A. A person who manufactures a prescription drug,
including a generic prescription drug, that is sold in New
Mexico shall file with the human services department:**

**(1) the average manufacturer price for the
drug;**

**(2) the price that each wholesaler or pharmacy
benefit manager doing business in this state pays the**

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1 manufacturer to purchase the drug; and

2 (3) the price paid to the manufacturer by any
3 entity in an arrangement or contract that sells or provides
4 prescription drugs in New Mexico without the services of a
5 wholesaler.

6 B. The information required under Subsection A of
7 this section shall be filed annually or more frequently, as
8 determined by the human services department.

9 C. A person who engages in the wholesale
10 distribution of prescription drugs in New Mexico shall file
11 with the human services department information showing the
12 actual price at which the wholesaler or distributor sells a
13 particular drug to a pharmacy.

14 D. As used in this section, "average manufacturer
15 price" means the average price paid to the manufacturer for the
16 drug in New Mexico, including rebates, discounts and market
17 incentives, after deducting customary prompt-pay discounts.

18 Section 2. PHARMACEUTICAL MANUFACTURERS-- DISCLOSURE--
19 EXEMPTIONS. --

20 A. A person who manufactures prescription drugs
21 for sale or consumption in New Mexico shall annually report to
22 the New Mexico health policy commission the following:

23 (1) the value, nature and purpose of any gift,
24 fee, payment, subsidy or other economic benefit incurred in
25 connection with detailing, promoting or other marketing

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1 activities by or in behalf of the company, directly or
2 indirectly, to any physician, hospital, nursing home,
3 pharmacist, health maintenance organization, managed care
4 organization, health insurance or health benefit plan or any
5 other person authorized to prescribe, dispense or purchase
6 prescription drugs in New Mexico; and

7 (2) the name and contact information of the
8 company person responsible for compliance with the requirements
9 of Subsection A of this section.

10 B. Exempt from the requirements of Subsection A of
11 this section are:

12 (1) free samples of prescription drugs
13 provided for distribution to patients; and

14 (2) any gift, fee, payment or other economic
15 benefit of twenty-five dollars (\$25.00) or less in value.

16 C. The New Mexico health policy commission shall
17 compile and report annually to the legislature the information
18 provided pursuant to Subsection A of this section.

19 Section 3. DISCLOSURE--LIMITATIONS.--Disclosure of
20 information acquired pursuant to Section 1 of this act shall
21 not identify a specific manufacturer, wholesaler, distributor
22 or other entity by name or the prices charged by a specific
23 manufacturer, wholesaler or distributor for a specific
24 prescription drug.

25 Section 4. ENFORCEMENT.--The office of the attorney

1 general may take action to investigate and enforce the
2 requirements of Sections 1 and 2 of this act.

3 Section 5. APPROPRIATION. -- Twenty-five thousand dollars
4 (\$25,000) is appropriated from the general fund to the human
5 services department for expenditure in fiscal year 2004 to
6 process information received pursuant to Section 1 of this act.
7 Any unexpended or unencumbered balance remaining at the end of
8 fiscal year 2004 shall revert to the general fund.

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